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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,943	08/02/2001	John Clayton Foster	52352-757	5290

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EXAMINER

TOLEDO, FERNANDO L

ART UNIT PAPER NUMBER

2823

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,943

Applicant(s)

FOSTER ET AL.

Examiner

Fernando Toledo

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claim 8 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.
2. Applicant's election without traverse of claims 1 – 7 in Paper No. 5 is acknowledged.

Claim Objections

3. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 5, which depends on claim 4, discloses the exact same limitation of claim 4, namely the thickness of the oxide layer.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1 – 3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Woo et al. (U. S. patent 6,507,123 B1).

6. In re claim 1, Woo in the U. S. patent 6,507,123 B1; figures 1A – 3K, and related text discloses providing a semiconductor substrate 10 having a horizontal surface; forming source and drain regions 30 and 32 in the surface of the substrate; forming a gate electrode 24 on the horizontal surface of the substrate between the source and drain regions, the gate electrode having a horizontal top surface and sidewalls; providing silicon nitride spacers 36 and 38 on the sidewalls of the gate electrode; depositing a thin layer of silicon oxide 37 on the horizontal surface of the semiconductor substrate and the horizontal top surface of the gate electrode; removing the silicon oxide layer over the horizontal surface of the semiconductor substrate and the horizontal top surface of the gate electrode (Figure 3H); depositing nickel 46 on the horizontal top surface of the gate and the horizontal surface of the substrate; annealing to react the nickel with silicon in the horizontal top surface of the gate electrode and in the horizontal surface of the substrate to form a metal silicide 48 on the horizontal surfaces.

7. In re claim 3, Woo teaches wherein the gate dielectric 16 is a dielectric selected from the group consisting of silicon dioxide, silicon nitride or a high-K dielectric (column 7, line 19).
8. In re claim 7, Woo discloses including the further step of removing the unreacted nickel (column 9, lines 10 – 19).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 4 – 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woo in view of Funai et al. (U. S. patent 6,162,667).
11. In re claim 2, Woo does not teach wherein the silicon oxide is formed by treating the substrate in a mixture of sulfuric acid and hydrogen peroxide.
12. However, Funai in the U. S. patent 6,162,667; discloses that in order to form a thin silicon oxide the silicon substrate is treated with a mixture of sulfuric acid and hydrogen peroxide (column 44).
13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the oxide film of Woo with a mixture of sulfuric acid and

hydrogen peroxide since according to Funai the mixture will form a thin film of silicon oxide.

14. In re claims 4 and 5, Woo in view of Funai does not teach wherein the thickness of the silicon oxide layer is 20 Å. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the silicon oxide layer with a thickness of 20 Å, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Also, layer thickness is a very well known process variable and determining the optimum or workable ranges require only routine experimentation. Note that the specification contains no disclosure of either the critical nature of the claimed thickness or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen thickness or upon another variable recited in a claim, the Applicant must show that the chosen thickness is critical. *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

15. In re claim 6, Woo discloses wherein the silicon oxide is removed using anisotropic sputter etching (column 8, lines 30 – 35).

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fernando Toledo whose telephone number is 703-305-0567. The examiner can normally be reached on Mon-Fri 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 703-306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7382 for regular communications and 703-308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Fernando Toledo
Examiner
Art Unit 2823

ft
January 14, 2003


Olik Chaudhuri
Supervisory Patent Examiner
Technology Center 2800